_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PHARMACIES TO FILL PRESCRIPTIONS; PROVIDING ALTERNATIVES WHEN A PRESCRIPTION DRUG OR DEVICE IS NOT IN STOCK; AMENDING SECTION 37-7-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Filling of prescription required.** (1) For purposes of this section, "reasonably accessible" means within a radius of 10 miles.

(2) A pharmacy shall fill without delay a prescription drug order for a drug or device that it carries in stock.

(3) If the pharmacy carries a prescription drug or device but does not have the drug or device in stock when it receives a prescription drug order for the drug or device, the pharmacy without delay shall:

(a) obtain the drug or device under its standard expedited ordering procedures;

(b) locate a pharmacy of the person's choice that is reasonably accessible to the person and that has the drug or device in stock and transfer the prescription drug order to that pharmacy; or

(c) at the person's request, return an unfilled prescription to the person.

(4) If a pharmacy does not carry a prescription drug or device and a person presents a prescription drug order for the drug or device, the pharmacy shall offer to locate a pharmacy that is reasonably accessible to the person and that has the drug or device in stock.

(5) A medical practitioner may dispense a prescription drug order pursuant to the provisions of 37-2-104 if the drug or device is not available from the pharmacy and another pharmacy is not reasonably accessible to the patient.

(6) A person who believes that a violation of this section has occurred may report the matter to the board of pharmacy.

Section 2. Section 37-7-201, MCA, is amended to read:

"37-7-201. Organization -- powers and duties. (1) The board shall meet at least once a year to transact its business. The board shall annually elect from its members a president, vice president, and secretary.

(2) The board shall regulate the practice of pharmacy in this state, including but not limited to:

(a) establishing minimum standards for:

(i) equipment necessary in and for a pharmacy;

(ii) the purity and quality of drugs, devices, and other materials dispensed within the state through the practice of pharmacy, using an official compendium recognized by the board or current practical standards;

(iii) specifications for the facilities, environment, supplies, technical equipment, personnel, and procedures for the storage, compounding, or dispensing of drugs and devices;

(iv) monitoring drug therapy; and

(v) maintaining the integrity and confidentiality of prescription information and other confidential patient information;

(b) requesting the department to inspect, at reasonable times:

(i) places where drugs, medicines, chemicals, or poisons are sold, vended, given away, compounded, dispensed, or manufactured; and

(ii) the appropriate records and the license of any person engaged in the practice of pharmacy for the purpose of determining whether any laws governing the legal distribution of drugs or devices or the practice of pharmacy are being violated. The board shall cooperate with all agencies charged with the enforcement of the laws of the United States, other states, or this state relating to drugs, devices, and the practice of pharmacy. It is a misdemeanor for a person to refuse to permit or otherwise prevent the department from entering these places and making an inspection.

(c) regulating:

(i) the training, qualifications, employment, licensure, and practice of interns;

(ii) the training, qualifications, employment, and registration of pharmacy technicians; and

(iii) under therapeutic classification, the sale and labeling of drugs, devices, medicines, chemicals, and poisons;

(d) examining applicants and issuing and renewing licenses of:

(i) applicants whom the board considers qualified under this chapter to practice pharmacy;

(ii) pharmacies and certain stores under this chapter;

(iii) wholesale drug distributors; and

(iv) persons engaged in the manufacture and distribution of drugs or devices;

(e) issuing certificates of "certified pharmacy" under this chapter;

(f) establishing and collecting license and registration fees;

(g) approving pharmacy practice initiatives that improve the quality of, or access to, pharmaceutical care but that fall outside the scope of this chapter. This subsection (2)(g) may not be construed to expand on the definition of the practice of pharmacy as defined in 37-7-101~~;~~.

(h) making rules for the conduct of its business;

(i) performing other duties and exercising other powers as this chapter requires;

(j) adopting and authorizing the department to publish rules for carrying out and enforcing parts 1 through 7 of this chapter, including but not limited to:

(i) requirements and qualifications for the transfer of board-issued licenses;

(ii) minimum standards for pharmacy internship programs and qualifications for licensing pharmacy interns;

(iii) qualifications and procedures for registering pharmacy technicians; ~~and~~

(iv) requirements and procedures necessary to allow a pharmacy licensed in another jurisdiction to be registered to practice telepharmacy across state lines; and

(v) procedures for ensuring that prescriptions are filled pursuant to [section 1], including but not limited to the procedure that a pharmacy shall follow to meet the requirement of locating an alternate, reasonably accessible pharmacy if it cannot fill the prescription drug order.

(3) The board may:

(a) join professional organizations and associations organized exclusively to promote the improvement of standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board; and

(b) establish standards of care for patients concerning health care services that a patient may expect with regard to pharmaceutical care."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 37, chapter 7, part 4, and the provisions of Title 37, chapter 7, apply to [section 1].

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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